

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

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EMS TRANSMISSION 03/22/2004
Instruction Memorandum No. 2004-140
Expires: 09/30/2005

To: All Washington and Field Office Officials

From: Director

Subject: Revisions and Clarifications to H-8550-1, Interim Management Policy for Lands Under Wilderness Review, as it Relates to Wildlife Management

Program Areas: Wilderness Study Area (WSA) Management, Wildlife Management.

Purpose: This Instruction Memorandum (IM) revises and clarifies Chapter I, pages 9-12 and Chapter III, Section G, Wildlife, pages 43-45 of Handbook H-8550-1, Interim Management Policy (IMP) for Lands Under- Wilderness Review dated July 5, 1995. The Revised Handbook language is attached.

Policy/Action: This IM addresses the following: (1) The roles of the States and BLM in the management of resident fish and wildlife in the WSAs; (2) The Policy for construction of new permanent installations and for surface disturbing activities in the WSAs; (3) Policies related to stocking, augmentation and reestablishment of wildlife species in the WSAs; (4) Policies for introduction or transplant of wildlife species into the WSAs; (5) Wildlife damage management in the WSAs; and (6) Modifications to Chapter 1, Section B, on implementing specific policy guidance related to management of the WSAs.

Timeframe: Effective immediately.

Budget Impact: The budgetary effects of implementing this IM and Handbook revisions are minimal.

Background: Periodically, the BLM updates the IMP to clarify existing policy, provide additional guidance as issues arise, or to provide specific examples and illustrations to aid managers in evaluating WSA interim management issues. The Handbook was last updated in 1995. This IM clarifies wildlife issues and adds a new section on State-federal coordination responsibilities.

The IM addresses a number of issues that have arisen regarding wildlife management in WSAs.

Manual/Handbook Sections Affected: This IM revises and clarifies BLM Handbook, H-8550-1, Interim Management Policy for Lands Under Wilderness Review.

Coordination: The clarifications in this IM are the result of extensive coordination and consultation with State wildlife agencies, BLM Fish, Wildlife, and Botany Group (WO-230), the Wilderness, Rivers and National Trails Group (WO-172), and the Solicitor Office.

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Signed by:
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Authenticated by:
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1 Attachment

1 - Revisions and Clarifications to H-8550-1 (5 pp)

CHAPTER III. POLICIES FOR SPECIFIC ACTIVITIES

G. WILDLIFE

General (as revised)

States have broad trustee and police powers over resident fish and wildlife found on federal land within their borders. State management of these resident fish and wildlife is accomplished using a variety of techniques and tools. The States establish hunting, fishing and trapping regulations, issue licenses, and provide enforcement of their regulations. Hunting, fishing, and trapping are normally unaffected by WSA designation. States regulate where and when the activities of hunting, fishing, and trapping take place in WSAs. Neither FLPMA nor the Wilderness Act preempts State jurisdiction or responsibilities with respect to fish and wildlife management.

Despite the primacy of States' in the management of fish and wildlife resources, the BLM is responsible for managing the habitat upon which these fish and wildlife are dependent. And in WSAs, the BLM has an additional responsibility to assure that these management techniques and tools do not cause impairment to wilderness values and that fish and wildlife management activities emphasize the continuation of natural processes to the greatest extent possible. Pages 2-5 of the IMP Handbook define the nonimpairment mandate. Chapter II of the IMP provides the specific guidance on procedures for evaluation of proposed actions following the National Environmental Policy Act (NEPA) process.

State-Federal Coordination (new)

In order to ensure effective management of resident fish and wildlife species, and at the same time not impair wilderness values in WSAs, it is the policy of the BLM to maintain effective coordination and communication with State wildlife management agencies. The BLM policy (MS 6521, Section 11), requires that each BLM State Office maintain effective communication and coordination with their State wildlife management agency counterparts. The BLM and the State wildlife management agency should use an MOU to identify any State-specific management activities, policies and /or procedures that may involve WSAs and to discuss under what conditions State fish and wildlife activities will be conducted in WSAs.

Permanent Installations/Surface Disturbing Activities Including Disruption of Vegetation (as revised)

Permanent structures and facilities and surface disturbing activities in support of wildlife management such as guzzlers, water tanks, exclosure fences, vegetation manipulation, and surface modifications that change the land natural contour are normally not permitted under the non-impairment criteria described on page 9 of the Handbook.

There are, however, five possible exceptions to the nonimpairment criteria, also listed on page 9 of the Handbook. One of them, Exception 4, may apply directly to wildlife management.

Exception 4 may allow certain new wildlife related projects that would otherwise be impairing, if those projects can be shown to clearly protect or enhance wilderness values. Wilderness values that may be enhanced by wildlife management activities that support healthy wildlife populations include naturalness, primitive and unconfined recreation opportunities, and ecological values. Examples of permanent structures and facilities and associated surface disturbing activities which may meet the criteria of Exception 4 are:

- Permanent structures or facilities built with approval of the administering agency for the benefit of threatened, endangered, or special status species if they are determined essential to the species conservation and recovery, and they contribute to a visitor wilderness experience;
- Permanent riparian, wetland, and aquatic structures and facilities permitted under the following conditions: their purpose is to maintain or enhance wilderness values, protect or maintain natural conditions, restore deteriorated habitat resulting from human influence, and they can be constructed to be substantially unnoticeable;
- Installations to enhance wildlife and wildlife related activities which were identified in the wilderness inventory and study of the specific WSA as a wilderness value of the area and which do not degrade the values of roadlessness, naturalness, solitude, or primitive and unconfined recreation opportunities that initially qualified the area for designation as a WSA.

The following factors should be met for each permanent installation or surface disturbing activity that has met the standard for the exception as set out above:

- a. Is substantially unnoticeable,
- b. Will not have a permanent negative impact on habitat in the WSA,
- c. Will not create a cumulative impact through its proximity to other pre-existing facilities in the WSA,
- d. Is not dependent on regular vehicle use for access and/or maintenance. The authorizing document must describe how the project will be maintained and monitored without regular vehicle access. Existing ways may be used for access in WSAs during the interim period as long as such use is consistent with
FLPMA's nonimpairment standards and applicable RMPs; and
- e. A determination has been made that alternative sites outside the WSA or nonstructural alternatives will not accomplish the objectives of the proposed project.

Permanent facilities which meet these conditions should be constructed, operated and maintained consistent with specific management activities, policies, and/or procedures identified in an environmental assessment or nonimpairment analysis and the State-level MOU.

Attachment 1-2

Stocking, Reestablishment, and Augmentation of Fish & Wildlife (as revised)

Stocking, reestablishment, and augmentation (restocking) of fish and wildlife on public land are management activities typically carried out by the State fish and wildlife management agencies. These State agencies are responsible for determining the type, number, and distribution of wildlife involved in these practices. Stocking is the act of releasing native or naturalized (alien species introduced into the area before it became a WSA) animals in an area currently occupied by the same species. Augmentation (restocking) is the act of releasing native or naturalized animals to maintain or enlarge an existing population of the same species within a specified area. Reestablishment is the act of releasing native species into formerly occupied habitat for the purpose or intent of creating self-sustaining populations.

The responsibility for conducting these activities also lies with the States, except in the case of federally listed species, where the States have concurrent jurisdiction with the U.S. Fish and Wildlife Service and National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA-Fisheries). Stocking, reestablishment, and augmentation of fish and wildlife on public land are allowed. These on-going activities should be done in accordance with State-level MOUs or written agreements between the applicable wildlife management agency(ies) and the BLM.

State and federal agencies may use temporary enclosures and installations to trap or transplant wildlife as long as the nonimpairment criteria are met. Any temporary or permanent structure or facility or surface disturbing activity necessary to carry out the stocking, reestablishment, and augmentation of fish and wildlife in WSAs must be evaluated to determine if it meets the nonimpairment criteria. The BLM, as the administering federal agency, is responsible for the analysis and approval of any proposed associated surface disturbing activities or structure or facility construction. BLM Manual 1745 provides more detailed descriptions of several of the terms used in this and the following section.

Introduction of Wildlife (as revised)

Introduction is defined as the intentional or unintentional escape, release, dissemination, or placement of a species into an ecosystem as a result of human activity. As defined in Executive Order (E.O.) 13112, native species means with respect to a particular ecosystem, a species that, other than as the result of introduction, historically occurred or currently occurs in that ecosystem. Alien species means with respect to a particular ecosystem, any species that is not native to that ecosystem. Invasive species are defined in E.O. 13112 as alien species whose introduction does or is likely to cause economic or environmental harm or harm to human health.

In accordance with Section 2(a-b) of E.O. 13112, and the BLM's mandate to not take any action that could cause impairment of wilderness values, it is BLM policy to prohibit to the extent practicable and permitted by law, the introduction of invasive alien species into WSAs. When it is determined that an invasive species is having a negative effect on native populations of plants

or animals, the BLM must take measures to remove or eliminate the invasive species from the affected WSA. The BLM shall encourage planning and action at local, tribal, State, regional, and ecosystem-based levels to achieve goals and objectives of E.O. 13112. Section 2(a)(3) of the E.O. outlines rare circumstances where an agency might determine that the benefits from an introduction of an invasive species clearly outweigh the potential harm, for example, biological controls to eradicate weeds. In these cases the agency must make that determination available to the public. In addition should BLM make such a determination for an introduction involving a WSA, that proposal still must be further evaluated to ensure that it would not impair the suitability of the area for wilderness designation.

A non-impairment analysis should be completed for all introduction proposals. While the E.O. does not address the introduction of alien species, any such proposed introduction must be evaluated and must not impair an areas wilderness suitability. This includes proposals for the transplant of species not native to an ecosystem (alien species) for the purpose of establishing a self-sustaining population in the wild. The requisite nonimpairment analysis should always consider effects on naturalness, in particular the effect on habitats and on native species in the WSA. Any associated permanent or temporary installations or surface disturbing actions necessary to carry out the introduction or transplant should be identified and evaluated to determine if they are impairing. In addition, coordination between the State wildlife agency and the BLM is required in order to ensure that the proposed action is consistent with the IMP policies/procedures identified in an expanded State-level MOU as discussed in Section G2 of this memorandum and E.O. 13112 as it relates to introduction of invasive species.

Wildlife Damage Management (Formerly Animal Damage Control) (as revised)

The U.S. Department of Agriculture, Animal and Plant Health Inspection Service-Wildlife Services (APHIS-WS) has Congressionally delegated authority to carry out wildlife damage management programs on public lands. The U.S. Fish and Wildlife Service (FWS), is responsible for implementing the Airborne Hunting Act (P.L. 92-502) and has delegated the administration of this Act to the States. In certain circumstances control of wildlife in WSAs by either APHIS-WS or the States is needed in order to protect domestic livestock, reduce human health or safety risks, remove non-native invasive species, or to enhance recovery of federally listed threatened or endangered species. Typically wildlife damage management activities are carried out by either the State wildlife management agency or APHIS-Wildlife Services and normally, these activities can occur in WSAs. However, because of the close relationship between habitat and wildlife, it is essential to maintain effective communication and coordination between APHIS-WS and the State wildlife agencies. Coordination is required in order that wildlife damage management activities that are planned in WSAs meet the nonimpairment criteria.

Changes to Chapter 1, Section B. Specific Policy Guidance

Page 11, Section B(6); Enhancing Wilderness Values: The example in paragraph 4 relating to a proposed guzzler is deleted. Paragraph 5 on page 11 is revised to say, "We must ensure,

therefore, in our consideration of any proposal to construct a facility within a WSA, that the facility will not degrade the very wilderness values that initially qualified the area for designation as a WSA."

Page 12, Section B(7); Existing Facilities: The second sentence is revised to say: "For example, these may include primitive vehicle routes ("ways") and wildlife or livestock developments."